IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWELVETH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

**THE HON'BLE MR JUSTICE N.V. RAMANA**

**WRIT PETITION NO : 19487 of 1997**

Between:

1. Bhupathiraju Jogi Jagannadha Raju S/o.Late Krishnam Raju
   R/o.Neelavathi Village, Gantyada Mandal,
   Vizianagaram District.
2.. Buddaraju China Suryanarayana Raju S/o.Late Lakshmi

Narasimha Raju R/o.Neelavathi Village, Gantyada Mandal,
Vizianagaram District.

3.. Buddaraju Bangarraju S/o.Late Lakshmi Narasimha Raju
   R/o.Neelavathi Village, Gantyada Mandal,
   Vizianagaram District.
4. Bandaru Venkata Swamy S/o.Late Rama Murthy
   R/o.Neelavathi Village, Gantyada Mandal,
   Vizianagaram District.
5. Atchenthala Swamy Setty S/o.Late Appalaswamy
   R/o.Neelavathi Village, Gantyada Mandal,
   Vizianagaram District.
6. Atchenthala Gunnayya Setty S/o.Late Venkataswamy
   R/o.Neelavathi Village, Gantyada Mandal,
   Vizianagaram District.
7. Bhupathi Raju Appala Narasimha Raju S/o.Late Krishnam Raju
   R/o.Neelavathi Village, Gantyada Mandal,
   Vizianagaram District. **.... PETITIONERS**

AND

1 District Collector
  Vizianagaram.
2 The Mandal Revenue Officer
  Gantyada Village and Mandal, Vizianagaram District.
3 The Sarpanch
  Neelavathi Village, Gantyada Mandal,
  Vizianagaram District.

4 The NODEL Officer
Gantyada Village and Mandal, Vizianagaram District.
5 Mandal Parishad Development Officer Mandal Parishad
Gantyada Village and Mandal, Vizianagaram District.

**.....RESPONDENTS**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any appropriate writ, order or direction more in the nature of Writ of Mandamus and declare the action of the respondents in laying road across the burial ground in S.No.172 in Neelavathi Village, Gantyada Mandal, Vizianagaram District as arbitrary, illegal and consequently direct the respondents not to lay the road across the burial ground in S.No.172 in Neelavathi Village, Gantyada Mandal, Vizianagaram District and pass such other orders in the circumstances of the case.

**Counsel for the Petitioner:SMT.M.BHASKARA LAKSHMI**

**Counsel for the Respondents.: GP FOR PANCHAYAT RAJ**

**The Court made the following :**

**ORDER:**

The present writ petition is filed, questioning the action of the respondents in laying road across the burial ground in S.No.172 in Neelavathi village, Gantyada mandal, Vizianagaram district.

As per the averments made in the writ affidavit, the petitioners are residents of Neelavathi village, Gantyada Mandal, Vizianagaram district and allege that the dead bodies of their relatives, for the last so many years are being cremated in burial ground covered under Survey No. 172 admeasuring about Ac.1.24 cents in Neelavathi village. It is further alleged that at the instance of Gram Sarpanch and others a proposal was passed to lay a road across the burial ground under Janmabhoomi programme. That the third respondent without considering the objections raised by the petitioner, forwarded the proposal and the same was accepted by respondents 1 and 2 without conducting any enquiry. Hence, the present writ petition.

This Court while admitting the writ petition on 19-8-1997 granted interim order restraining the respondents from laying the road across burial ground in Survey No. 172 in Neelavathi village, Gantyada Mandal, Vizianagaram district. It is pertinent to note that this Court on 4-4-2005 while granting time for filing counter, observed that in the absence of filing counter within one week, the District Collector shall appear in person on 11-4-2005. However on 11-4-2005, the counter affidavit was not filed and

with a view to give one more chance the matter was adjourned to today. Today also the counter affidavit was not filed. In the absence of counter affidavit denying the writ averments, this Court has no option, except to accept the writ averments as true and correct and to allow the writ petition.

Accordingly, the writ petition is allowed. No costs.

_____

N.V.RAMANA,J

12-4-2005

TVK

That Rule nisi has been made absolute as above. Witness the Hon'ble Sri Bilal Nazki, Acting the Chief Justice on this Tuesday the twelveth of April, two thousand and five.

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The District Collector
Vizianagaram.
2 The Mandal Revenue Officer
Gudivada Village and Mandal, Vizianagaram District.
3 The Sarpanch
Neelavathi Village, Gantyada Mandal,
Vizianagaram District.
4 The NODEL Officer
Gantyada Village and Mandal, Vizianagaram District.
5 The Mandal Parishad Development Officer Mandal Parishad
Gantyada Village and Mandal, Vizianagaram District.

6) 2 CD copies

7 ) 1 CC to SMT.BHASKARA LAKSHMI

8).. 2 CCs to the Government Pleader for Panchayat Raj, High Court of A.P. Buildings, Hyderabad (OUT)

*Form-NIC-OGS/WP{**MN**}*